THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 19841 of 2007

Date:20-09-2007

Between:

Gaddala Prakash **…Petitioner**

AND

The District Collector, Khammam and two others

.. Respondents

ORDER:

The petitioner seeks a writ of mandamus to declare the action of the second respondent in issuing proceedings Rc.No.P6/371/2007, dated 12.07.2007 withdrawing the cheque power of the petitioner, without issuing the notice as required under the proviso to Rule 42(1) of G.O.Ms.No.30, Panchayat Raj and Rural Development Department, dated 20.01.1995, as illegal and arbitrary.

It is the case of the petitioner that he is an elected Sarpanch of Laxmipuram Gram Panchayat for the second time in the elections held in August, 2006 and previously also he was elected as Sarpanch of the said village on 18.08.2001. The petitioner belongs to the scheduled caste community and as a mark of recognition of his services, he was elected as Sarpanch for the second time.

While so, some rival group i.e. Upa-sarpanch and others submitted complaints on 03.07.2007 and 04.07.2007 against the petitioner, based on which the District Panchayat Officer, Khammam without enquiring into the genuineness or otherwise of the said incorrect complaints straightaway passed an order in Rc.No.P6/371/2007, dated 12.07.2007 withdrawing the cheque powers pending final orders under the proviso to Rule 42(1) of G.O.Ms.No.30, Panchayat Raj and Rural Development Department, dated 20.01.1995.

Learned counsel appearing for the petitioner submits that pursuant to the said orders, the petitioner submitted an explanation within ten days and for the purpose of enquiring into the contents of the said explanation, the District Panchayat Officer, Khammam passed

another order, dated 09.08.2007 directing the Divisional Panchayat Officer to make an enquiry and submit a report. It is stated that the petitioner has not misappropriated any funds. In fact, the petitioner has got the works executed after following due procedure prescribed under law and work measurements were also entered into the measurements book. It is stated that without verifying the aforesaid factual execution of the work, the cheque powers of the petitioner have been withdrawn. The learned counsel further submits that under first proviso to Rule 42 of Rules Relating to Certain Taxes and the Lodging of Moneys received by the Gram Panchayat and Payment of Money from the Gram Panchayat Fund, 1995 (for short "the Rules"), the cheque powers of the Sarpanch cannot be withdrawn without giving any opportunity.

Learned Government Pleader for the respondents submits that as an interim measure, the cheque powers can be withdrawn pending the orders under Rule 42 of the said Rules.

Having regard to the facts of the case, I am of the opinion that as the petitioner has already submitted his explanation, it is just and proper to direct the second respondent to complete the enquiry and pass appropriate orders in accordance with law.

Accordingly, the writ petition is disposed of directing the second respondent to get the works executed by the petitioner which are measured and verify the same by considering the explanation of the petitioner and pass appropriate final orders within two weeks from the date of receipt of a copy of this order, failing which the cheque powers in favour of the petitioner shall be restored by the second respondent. There shall be no order as to costs.

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V.ESWARAIAH, J.

Date:20.09.2007

Note:
Furnish C.C. within three days.

B/O
ccm